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Attorneys for Complainant

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against,

Case No. 800-2018-049161

13 **Heather A. Carriedo, M.D.**
14 **401 Valle Alto Dr., NE**
15 **Rio Rancho, NM 87124**

**DEFAULT DECISION
AND ORDER**

16 **Physician's and Surgeon's Certificate**
17 **No. A 64020,**

[Gov. Code, §11520]

18 Respondent.

19 **FINDINGS OF FACT**

20 1. On or about February 6, 2019, Complainant Kimberly Kirchmeyer, in her official
21 capacity as the Executive Director of the Medical Board of California, Department of Consumer
22 Affairs, filed Accusation No. 800-2018-049161 against Heather A. Carriedo, M.D. (Respondent)
23 before the Medical Board of California.

24 2. On or about December 5, 1997, the Medical Board of California (Board) issued
25 Physician's and Surgeon's Certificate No. A 64020 to Respondent. The Physician's and Surgeon's
26 Certificate expired on December 31, 2015. (Exhibit Package, Exhibit 1, License Certification.)¹

27 _____
28 ¹ The evidence in support of this Default Decision and Order is submitted herewith as the
"Exhibit Package."

1 3. On or about February 6, 2019, Dianne Richards, an employee of the Complainant
2 Agency served by Certified Mail a copy of the Accusation No. 800-2018-049161, Statement to
3 Respondent, Notice of Defense, Request for Discovery, and Government Code sections 11507.5,
4 11507.6, and 11507.7 to Respondent's address of record with the Board, which was and is 401
5 Valle Alto Drive, NE, Rio Rancho, New Mexico, 87124. (Exhibit Package, Exhibit 2, Accusation
6 Package, Declaration of Service.)

7 4. Service of the Accusation was effective as a matter of law under the provisions of
8 Government Code section 11505, subdivision (c).

9 5. On or about February 12, 2019, the green certified return receipt, signed and dated
10 February 9, 2019, was returned by the U.S. Postal Service. (Exhibit Package, Exhibit 3, Signed
11 Receipt.)

12 6. On or about February 28, 2019, counsel for Complainant served by certified mail a
13 Courtesy Notice of Default upon Respondent at Respondent's address of record, 401 Valle Alto
14 Drive, NE, Rio Rancho, New Mexico, 87124. The Notice of Default provided Respondent with a
15 copy of the Accusation, the Statement to Respondent, a Notice of Defense, Request for
16 Discovery, and discovery statutes, and advised Respondent that he was in default. The U.S. Postal
17 Service tracking number for the Courtesy Notice of Default was 9414726699042009221719.
18 (Exhibit Package, Exhibit 4, Courtesy Notice of Default, Accusation Package, Declaration of
19 Service.)

20 7. On April 22, 2019, counsel for Complainant visited the U.S. Postal Service tracking
21 website, which noted that a March 4, 2019, attempt to serve the Courtesy Notice of Default had
22 failed. The tracking history for that package, as reported by the U.S. Postal Service website
23 stated, "Notice Left (No Authorized Recipient Available)." A copy of the United States Postal
24 Service History for this envelope, which was drawn from the following location
25 [https://tools.usps.com/go/TrackConfirmAction?tRef=fullpage&tLc=2&text28777=&tLabels=941](https://tools.usps.com/go/TrackConfirmAction?tRef=fullpage&tLc=2&text28777=&tLabels=9414726699042009221719%2C)
26 [4726699042009221719%2C](https://tools.usps.com/go/TrackConfirmAction?tRef=fullpage&tLc=2&text28777=&tLabels=9414726699042009221719%2C), has been included in the Exhibit Package. (Exhibit Package,
27 Exhibit 5, USPS Tracking for package 9414726699042009221719.)
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Respondent's express admissions by way of default and the evidence before it, contained in the Exhibit Package, finds that the allegations in Accusation No. 800-2018-049161 are true.

A. On or about October 5, 2018, an Agreed Interim Order for Inactivation of License and Stipulation Requiring Clearance and Approval Before License can be Reactivated (Agreed Interim Order), signed by Respondent and agreed to by the New Mexico Medical Board, and became effective.

B. On or about October 11, 2018, the New Mexico Medical Board filed a Notice of Contemplated Action Against Licensee (NCA), alleging that Respondent:

- 1). was not physically able to practice medicine at that time;
- 2). Failed to comply with established Board requirements for the management of pain and other conditions with controlled substances;
- 3). Did not disclose in a June of 2015 application for license and a July 2016 renewal application that Respondent had a health condition that could affect patient care; and/or
- 4.) failed to report to the Board in a timely manner that adverse actions had been taken against Respondent's clinical privileges.

(A copy of the Notice of Contemplated Action Against Licensee (NCA) filed by the New Mexico Medical Board is attached to the Accusation, Exhibit Package, Exhibit 2, Accusation Package.)

16. Pursuant to the foregoing Findings of Fact, Respondent's conduct and the action of the New Mexico Medical Board constitute cause for discipline within the meaning of Business and Professions Code sections 2305 and 141.

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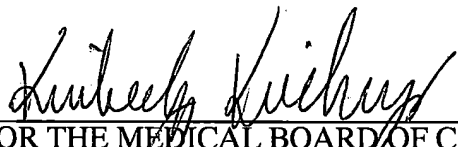
ORDER

IT IS SO ORDERED that Physician's and Surgeon's Certificate No. A 64020, heretofore issued to Respondent Heather A. Carriedo, M.D., is revoked.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a written motion requesting that the Decision be vacated and stating the grounds relied on within seven (7) days after service of the Decision on Respondent. The agency in its discretion may vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on July 19, 2019 at 5:00 pm.

It is so ORDERED June 21, 2019



FOR THE MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
KIMBERLY KIRCHMEYER, Executive Director

1 XAVIER BECERRA
Attorney General of California
2 MARY CAIN-SIMON
Supervising Deputy Attorney General
3 GREG W. CHAMBERS
Deputy Attorney General
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6 Facsimile: (415) 703-5480
Attorneys for Complainant

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO Feb 6 20 19
BY ANALYST

8 BEFORE THE
9 MEDICAL BOARD OF CALIFORNIA
10 DEPARTMENT OF CONSUMER AFFAIRS
11 STATE OF CALIFORNIA

12 In the Matter of the Accusation Against:

Case No. 800-2018-049161

13 Heather A. Carriedo, M.D.
14 401 Valle Alto Dr., NE
15 Rio Rancho, NM 87124

ACCUSATION

16 Physician's and Surgeon's Certificate
No. A 64020,

17 Respondent.

18
19 Complainant alleges:

20 PARTIES

21 1. Kimberly Kirchmeyer (Complainant) brings this Accusation solely in her official
22 capacity as the Executive Director of the Medical Board of California, Department of Consumer
23 Affairs (Board).

24 2. On or about December 5, 1997, the Medical Board issued Physician's and Surgeon's
25 Certificate Number A 64020 to Heather A. Carriedo, M.D. (Respondent). The Physician's and
26 Surgeon's Certificate expired on December 31, 2015, and has not been renewed.

JURISDICTION

3. This Accusation is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

4. Section 2004 of the Code provides that the Board shall have the responsibility for the enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

5. Section 2227 of the Code provides that a licensee who is found guilty under the Medical Practice Act may have his or her license revoked, suspended for a period not to exceed one year, placed on probation and required to pay the costs of probation monitoring, or such other action taken in relation to discipline as the Board deems proper.

6. Section 2305 of the Code states:

"The revocation, suspension, or other discipline, restriction or limitation imposed by another state upon a license or certificate to practice medicine issued by that state, or the revocation, suspension, or restriction of the authority to practice medicine by any agency of the federal government, that would have been grounds for discipline in California of a licensee under this chapter shall constitute grounds for disciplinary action for unprofessional conduct against the licensee in this state."

7. Section 141 of the Code states:

"(a) For any licensee holding a license issued by a board under the jurisdiction of the department, a disciplinary action taken by another state, by any agency of the federal government, or by another country for any act substantially related to the practice regulated by the California license, may be a ground for disciplinary action by the respective state licensing board. A certified copy of the record of the disciplinary action taken against the licensee by another state, an agency of the federal government, or another country shall be conclusive evidence of the events related therein.

"(b) Nothing in this section shall preclude a board from applying a specific statutory provision in the licensing act administered by that board that provides for discipline based upon a disciplinary action taken against the licensee by another state, an agency of the federal government, or another country."

1 **CAUSE FOR DISCIPLINE**

2 **(Discipline, Restriction, or Limitation Imposed by Another State)**

3 8. Respondent Heather A. Carriedo, M.D. is subject to disciplinary action under sections
4 2305 and 141 of the Code in that on or about October 2, 2018, Respondent voluntarily signed an
5 Agreed Interim Order for Inactivation of License and Stipulation Requiring Clearance and
6 Approval Before License can be Reactivated (Agreed Interim Order), with regard to her New
7 Mexico physician's license, attached as **Exhibit A** and incorporated herein. On October 5, 2018,
8 the Agreed Interim Order became effective and precludes Respondent from practicing medicine
9 in New Mexico until Respondent receives approval from the New Mexico Medical Board. The
10 circumstances are as follows:

11 9. On or about October 11, 2018, the New Mexico Medical Board filed a Notice of
12 Contemplated Action Against Licensee (NCA), alleging that Respondent:

- 13 A. was not physically able to practice medicine at the time;
14 B. failed to comply with established Board requirements for the management of pain and
15 other conditions with controlled substances;
16 C. did not disclose in a June 2015 application for license and a July 2016 renewal
17 application that Respondent had a health condition that could affect patient care; and/or
18 D. failed to report to the Board in a timely manner that adverse actions had been taken
19 against Respondent's clinical privileges.

20 **PRAYER**

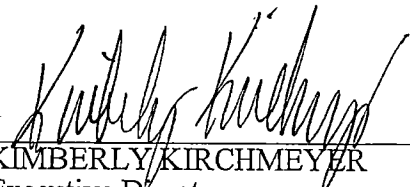
21 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
22 and that following the hearing, the Medical Board of California issue a decision:

- 23 1. Revoking or suspending Physician's and Surgeon's Certificate Number A 64020,
24 issued to Heather A. Carriedo, M.D.;
25 2. Revoking, suspending or denying approval of Heather A. Carriedo, M.D.'s authority
26 to supervise physician assistants and advanced practice nurses;
27 3. Ordering Heather A. Carriedo, M.D., if placed on probation, to pay the Board the
28 costs of probation monitoring; and

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4. Taking such other and further action as deemed necessary and proper.

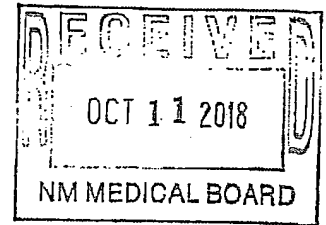
DATED: February 6, 2019


KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

21319461.docx

EXHIBIT A

BEFORE THE NEW MEXICO MEDICAL BOARD



**IN THE MATTER OF
HEATHER A. CARRIEDO, M.D.**

License No. MD2015-0582

Respondent.

No. 2018-049

(Inv. No. 2018-A-005)

Via email (kallie@businesslawsw.com)
and certified first-class mail to

To: Heather A. Carriedo, M.D.
c/o Kallie Dixon
Kallie Dixon Law
320 Gold Ave., SW, Suite 610
Albuquerque, NM 87102

NOTICE OF CONTEMPLATED ACTION (NCA) AGAINST LICENSEE

YOU ARE HEREBY NOTIFIED that the New Mexico Medical Board ("Board") "has before it sufficient evidence that, if not rebutted or explained, will justify the [B]oard in taking action" imposing disciplinary sanctions, up to and including revocation of your license to practice medicine in New Mexico. NMSA 1978, § 61-1-4(D) (stating the requirements for the Board's written notice to a licensee); *see also* NMSA 1978 § 61-1-3 (requiring written notice before the Board takes disciplinary action).

Board Jurisdiction and Authority

1. You are subject to the Board's jurisdiction pursuant to the Medical Practice Act (MPA), NMSA 1978, Sections 61-6-1 to -35, and the Uniform Licensing Act (ULA), NMSA 1978, Sections 61-1-1 to -33, because you hold a license to practice medicine in New Mexico. Your decision to place your license on inactive status pursuant to your October 5, 2018, Agreed Interim Order with the Board, does not divest the Board of jurisdiction.

2. The Board has authority to issue this Notice of Contemplated Action (NCA) under Section 61-6-15 of the MPA and Section 61-1-4(D) of the ULA.

Public Action

3. This NCA is a public document, open to public inspection, but its issuance does not constitute a disciplinary event reportable to the National Practitioners Data Bank (NPDB).

Evidence Supporting Contemplated Action

4. Credible evidence possessed by the Board supports findings by the Board that –
- a. you are not physically able to practice medicine at this time,
 - b. you failed to comply with established Board requirements for the management of pain and other conditions with controlled substances,
 - c. you did not disclose in your June 2015 application for license and your July 2016 renewal application that you had a health condition that could affect patient care, and/or
 - d. you failed to report to the Board in a timely manner that adverse action had been taken against your clinical privileges.

5. If a preponderance of the evidence establishes any or all of these findings, the Board may conclude that you engaged in conduct actionable under the MPA and the rules and regulations of the Board ("Board's Rules"), found at Title 16, Chapter 10, NMAC, including –

- a. conduct contemplated by the MPA's non-exclusive definition of "unprofessional or dishonorable conduct," such as –

- (1) Section 61-6-15(D)(7) ("habitual or excessive use of intoxicants or drugs"),

- (2) Section 61-6-15(D)(8) ("... misrepresentation in applying for or procuring a license to practice in this state or in connection with applying for or

procuring renewal”),

(3) Section 61-6-15(D)(13) (“manifest incapacity or incompetence to practice as a licensee”),

(4) Section 61-6-15(D)(18) (“conduct likely to . . . harm the public”), and/or

(5) Section 61-6-15(D)(29) (“conduct unbecoming in a person licensed to practice or detrimental to the best interests of the public”), and/or

b. violation of the Board’s Rules, specifically –

(1) Rule 16.10.8.8 NMAC (including “dishonesty” in the definition of “unprofessional or dishonorable conduct”),

(2) Part 16.10.10 NMAC (establishing requirements for reporting actions adversely affecting clinical privileges), and/or

(3) Part 16.10.14 NMAC (governing the management of pain and other conditions with controlled substances), and/or

c. the ethical standards contained in the AMA’s code of medical ethics, as adopted by the Board at Rule 16.10.8.9 NMAC.

6. The Board’s investigation is ongoing. At any time prior to final resolution of this matter, the Board may amend this NCA to reflect additional evidence and potential findings supporting the imposition of disciplinary sanctions against you.

Your Rights

7. Section 61-1-3 of the ULA entitles you to a hearing on the allegation(s) contained in this NCA. You secure your right to a hearing by submitting a request to the Board. Your request must be in writing, addressed to the Board, and delivered by certified mail, return receipt requested. You must deposit your request for a hearing in the mail *within twenty days* following

your receiving service of this NCA. NMSA 1978, § 61-1-4(D)(3).

8. If you do not request a hearing within twenty days following service of this NCA, the Board may take action against your license up to and including revocation of your license and the privilege to practice in New Mexico. In accordance with Section 61-1-4(E) of the ULA, that action will be final and not subject to judicial review.

9. Section 61-1-8 of the ULA entitles you to certain rights in connection with any hearing that may be held on this matter. Those rights include the following –

a. At the hearing, you have the right (1) to be represented by counsel or by a licensed member of your profession or both, (2) to present all relevant evidence by means of witnesses, books, papers, documents and other evidence, and (3) to question all opposing witnesses who may appear on any matter relevant to the issues.

b. In advance of the hearing, you have the right to have subpoenas issued to compel (1) the production of relevant books, papers, documents and other evidence, and (2) the attendance of witnesses on your behalf. These subpoenas will be issued by the Board upon your written request to the Hearing Officer assigned to your case. After commencement of the hearing, the issuance of subpoenas is at the discretion of the Hearing Officer.

c. Within ten days following your submission of a written request to the Board, you are entitled (1) to obtain the names and addresses of witnesses the Board will or may call to testify at the hearing, and (2) to inspect or copy any documents or items the Board will or may introduce in evidence at the hearing.


d. Like the Board, you may take and use depositions in accordance with the Rules of Civil Procedure for the District Courts of New Mexico.

Costs

10. Under Section 61-1-4(G) of the ULA, if the Board takes action against your license, as defined in Section 61-1-3 of the ULA, you will be required to reimburse the Board for the costs of its proceedings unless the Board excuses some or all of those costs.

NEW MEXICO MEDICAL BOARD

10.11.18
Date


Sondra Frank, Esq., Executive Director

Please direct any questions you or your attorney may have to –

Yvonne Chicoine, Chief Legal Counsel
New Mexico Medical Board
2055 South Pacheco Street, Building 400
Santa Fe, New Mexico 87505
ph: 505/476-7223
email: YvonneM.Chicoine@state.nm.us

BEFORE THE NEW MEXICO MEDICAL BOARD

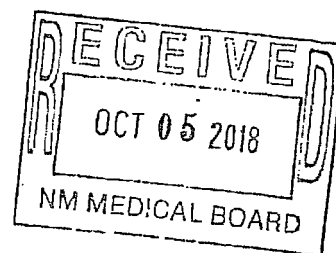
**IN THE MATTER OF
HEATHER A. CARRIEDO, M.D.**

License No. MD 2015-0582

Respondent.

Case No. 2018-049

(Inv. No. 2018-A-005)



**AGREED INTERIM ORDER FOR INACTIVATION OF LICENSE AND
STIPULATION REQUIRING CLEARANCE AND APPROVAL
BEFORE LICENSE CAN BE REACTIVATED**

The New Mexico Medical Board ("Board") and Heather A. Carriedo, M.D. ("Respondent") (together, "the Parties") jointly approve this "Agreed Interim Order for Voluntary Inactivation of License and Stipulation Requiring Clearance and Board Approval Before License can be Reactivated" ("Agreed Interim Order").

STIPULATIONS OF THE PARTIES

1. The Parties stipulate that Respondent holds license number MD2015-0582 and is subject to the jurisdiction of the Board pursuant to the Medical Practices Act (MPA), NMSA 1978, Sections 61-6-1 through -35 (1989, as amended through 2017), the Uniform Licensing Act (ULA), NMSA 1978, Sections 61-1-1 through -34 (1953, as amended through 2017), and the Rules of the Board ("Board Rules"), Title 16, Chapter 10, NMAC.
2. The Parties stipulate that the Board offered Respondent the opportunity to place her license on inactive status in lieu of the Board issuing a Notice of Summary Suspension (NSS) based on evidence obtained by the Board supporting an allegation that Respondent's continued practice of medicine poses a clear and immediate danger to the public health and safety.
3. The Parties stipulate that the allegation against Respondent stated above, if proven, constitutes one or more violations of the MPA, the Board's Rules, and/or the Code of

Ethics of the American Medical Association, as adopted by the Board in the Board's Rules.

4. The Parties stipulate that the Board possesses sufficient evidence to support its issuance of an NSS based on the allegation stated above, and that the evidence would establish that allegation by a preponderance of the evidence.

5. The Parties stipulate that Respondent is unwilling to voluntarily surrender her medical license at this time, an action that would require her to apply for a new license if she wished to resume the practice of medicine in New Mexico.

6. The Parties stipulate that Respondent does not admit any wrongdoing by entering into this Agreed Interim Order.

7. The Parties stipulate that they have the authority under the MPA and the ULA to enter into this Agreed Interim Order.

8. The Parties stipulate that this Agreed Interim Order –

- a. was mutually negotiated and determined,
- b. contains no provision that is unconscionable, and
- c. will otherwise remain in full force and effect if any portion of it is invalidated by judgment or court order.

AGREEMENT OF THE PARTIES

9. In exchange for Respondent's agreement to inactivate her license and to accept the conditions on applying for reinstatement of her license contained in this Agreed Interim Order, the Board agrees –

- a. it will not pursue an action to summarily suspend Respondent's license, and
- b. it will not seek to bar permanently Respondent from holding a license to practice medicine in New Mexico as long as Respondent complies with the terms of this Agreed Interim

Order and does not engage in further conduct that could result in a violation of the MPA and the Rules of the Board.

10. In exchange for the Board's agreement not to summarily suspend Respondent's license, Respondent agrees –

- a. she will not apply to reinstate her license absent her submission of evidence satisfactory to the Board that she is able and competent to practice medicine, and
- b. she will not practice medicine in New Mexico until the Board approves her doing so, which may require Respondent to agree to requirements and/or restrictions the Board in its sole discretion may deem appropriate and necessary.

11. The Parties agree that, notwithstanding Respondent's agreement to place her license on inactive status, the Board has the authority and will proceed to issue a Notice of Contemplated Action (NCA) based on evidence obtained by the Board during its investigation.

12. The Parties agree this Agreed Interim Order is in the best interests of Respondent, the Board and the public and is consistent with the purposes and objectives of the MPA.

13. By signing this Agreed Interim Order, Respondent agrees to waive her right to practice medicine in New Mexico under her license unless and until –

- a. she provides the Board with evidence satisfactory to the Board that she is physically able to practice medicine,
- b. accepts and agrees to comply with any requirements and/or restrictions the Board may impose on her ability to practice, and
- c. her right to any appeal of this Agreed Interim Order.

14. The Parties agree this Agreed Interim Order contains the entire agreement between the Parties with respect to its subject matter, and that this Agreed Interim Order will not

be enlarged, modified, or altered except by written order of the Board after Respondent has been given the opportunity to be heard.

15. The Parties agree this Agreed Interim Order shall have full force and effect if it is executed in counterparts and/or via facsimile or electronic means.

16. The Parties agree this Agreed Interim Order will be effective upon approval by the Board.

17. The Parties agree Respondent will report entry of this Agreed Interim Order to any other jurisdiction where she may be licensed to practice medicine.

STATEMENT AND ACKNOWLEDGEMENTS BY RESPONDENT

18. By signing below, Respondent states and acknowledges that she –

a. knowingly, voluntarily and intelligently accepts and understands the terms of this Agreed Interim Order,

b. knowingly, voluntarily and intelligently is waiving her rights under the MPA and the ULA, including her right to a hearing, and her right to any appeal of this Agreed Interim Order, as it relates to her agreement to inactivate her license,

c. knows and understands she has the right to consult with an attorney of her choice regarding her rights and the effects of this Agreed Interim Order, and that she is stating she has either consulted an attorney or is waiving her right to counsel,


d. confirms her knowledge that this Agreed Interim Order is a public document, reportable to the National Practitioner's Data Bank (NPDB), the Federation of State Medical Boards (FSMB) and the American Medical Association (AMA),

e. states she is of sound mind and not under the influence of, or impaired by, any medication or drug, and

f. acknowledges that she is responsible for paying all costs associated with her compliance with this Agreed Interim Order.

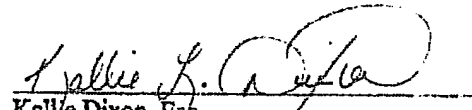
Date

10/2/18


Heather A. Carriedo, M.D.

Date

10/4/18


Kallie Dixon, Esq.
Counsel for Respondent

INTERIM ORDER

THE BOARD, HAVING FOUND that allowing Respondent to inactivate her license to practice medicine in the State of New Mexico and placing conditions on Respondent's ability to reinstate her license is in the best interests of Respondent, the Board and the public, that it will promote administrative efficiency, and that it will conserve taxpayer resources, and

HAVING FURTHER found that Respondent understands the terms of this Agreed Interim Order, including her waiver of rights,

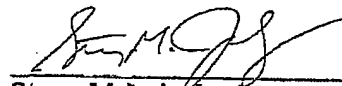
HEREBY ACCEPTS Respondent's inactivation of her license to practice medicine in the State of New Mexico in lieu of it issuing a Notice of Summary Suspension.

IT IS SO ORDERED.

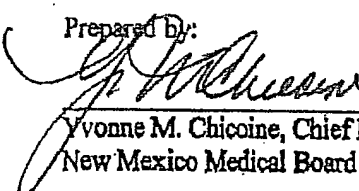
NEW MEXICO MEDICAL BOARD

Date

10/5/18


Steven M. Jenkush, M.D., Chairman

Prepared by:


Yvonne M. Chicoine, Chief Legal Counsel
New Mexico Medical Board